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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,833	02/25/2002	Stephen M. Graves	P00079US2A	4638
7590	02/07/2005		EXAMINER	
Chief Intellectual Property Counsel Bridgestone Americas Holding, Inc. 1200 Firestone Parkway Akron, OH 44317			PAK, SUNG H	
			ART UNIT	PAPER NUMBER
				2874

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/082,833	GRAVES ET AL.
	Examiner	Art Unit
	Sung H. Pak	2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 November 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 15-38,40,41,43 and 44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 15-38,40,41,43 and 44 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Applicants' amendment filed 11/15/2004 has been considered by the examiner. All pending claims have been carefully reconsidered in view of the amendment. In response to the claim amendment, a new ground of rejection is provided in this office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

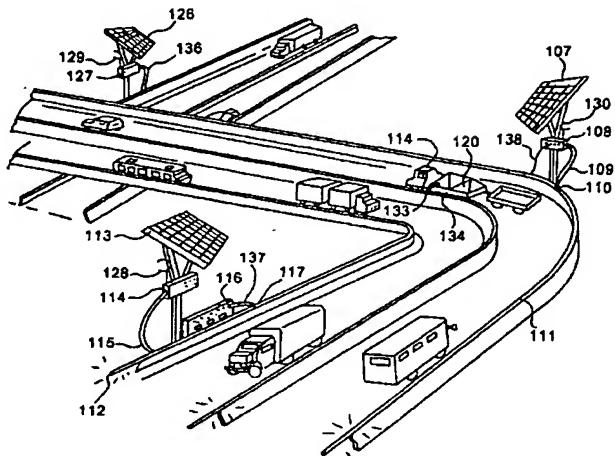
Claims 15-38, 40-41, 43-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tribelsky et al (US 6,592,245 B1) in view of Sugiyama et al (US 5,982,969).

Tribelsky et al and Sugiyama et al were cited in the previous office action.

Tribelsky discloses an optical device with all the limitations set forth in the claims, except it does not explicitly teach the use of a reflecting layer in a strip form extending along the

transmission tube, transmission tube made of acrylic, and a light source being a light emitting diode.

Nevertheless, Tribelsky does disclose:



a delineation marker (delineating the edges of the road- see figure above); wherein the delineation marker includes a guard rail for the road (figure above); wherein the guard rail extends along a curved portion of the road (figure above); wherein the delineation marker includes plurality of guard rails that are plurality of barrier walls (on either side of the road- see figure above); one or more optical transmission tubes provided on one or more of the barrier walls, the transmission tubes configured to illuminate and outline the travel path (Figure above; abstract); wherein the optical transmission tube is an elongated body that is substantially transparent (see column 2 lines 53-62: 'side emitting fiber' inherently comprises elongated body that is substantially transparent); wherein a light source is provided at the end portion of the elongated body (see column 2 lines 55-56); wherein the optical transmission tube assembly is connected to the top edge of the delineation marker (figure above); wherein the delineation marker convey impending curve or edge of the road (figure above); wherein the illumination enhances vehicle driver preview distance (inherently disclosed by the teaching of the reference).

Although a 'reflective layer' is inherent in the side emitting optical fiber of Tribelsky, Tribelsky does not explicitly teach the use of a reflective layer in a strip form.

On the other hand, Sugiyama explicitly teaches the use of a light emitting diode as the light source, transmission tube being made of acrylic, and a strip of light reflective layer in a side emitting optical fiber device (Figs. 1-2; column 4 lines 30-31; column 7 line 62; column 4 line 65). Sugiyama explains that the prior art side emitting optical transmission tubes lack desirable qualities, and that Sugiyama's configuration is advantageous and desirable because it allows for optical transmission tube with improved environmental resistance, and low operating power consumption (column 1 line 7- column 2 line 30). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the device of Tribelsky to have a reflective strip layer and a light emitting diode as a light source as taught in Sugiyama.

Response to Arguments

Applicants' arguments have been carefully reviewed by the examiner. However, they are deemed moot in view of the new ground of rejection provided in this office action.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sung H. Pak whose telephone number is (571) 272-2353. The examiner can normally be reached on Monday- Friday, 9AM-5PM.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sung H. Pak
Examiner
Art Unit 2874

sp



Rodney Bovennick
Supervisory Patent Examiner
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